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To approve and encourage the use by the President of any means necessary and appropriate, including diplomacy, economic sanctions, a blockade, and military force, to prevent the development, acquisition, or use by North Korea of a nuclear explosive device.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 1993

Mr. GILMAN (for himself, Mr. MURTHA, Mr. SOLOMON, and Mr. HYDE) introduced the following joint resolution; which was referred to the Committee on Foreign Affairs

JOINT RESOLUTION

To approve and encourage the use by the President of any means necessary and appropriate, including diplomacy, economic sanctions, a blockade, and military force, to prevent the development, acquisition, or use by North Korea of a nuclear explosive device.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This joint resolution may be cited as the “Nuclear
3 Nonproliferation in Korea Resolution”.

4 **SEC. 2. NORTH KOREA’S PROGRAM TO DEVELOP A NU-**
5 **CLEAR EXPLOSIVE DEVICE.**

6 The Congress finds the following:

7 (1) The Democratic People’s Republic of Korea
8 (in this joint resolution referred to as “North
9 Korea”) has for over a decade pursued a program
10 aimed at the development of a nuclear explosive de-
11 vice.

12 (2) Director of Central Intelligence R. James
13 Woolsey has testified before the Congress that North
14 Korea is the most urgent threat to United States
15 national security in East Asia, that there is a real
16 possibility that North Korea has produced enough
17 nuclear material to build at least 1 nuclear explosive
18 device, and that possession by North Korea of such
19 a device would threaten United States allies in all of
20 Asia as well as United States forces in the region.

21 (3) On December 12, 1985, North Korea be-
22 came a party to the Treaty on the Non-Proliferation
23 of Nuclear Weapons as a non-nuclear-weapon state.

24 (4) On December 30, 1991, North Korea and
25 the Republic of Korea reached a bilateral
26 denuclearization agreement forbidding the produc-

1 tion, possession, or deployment of nuclear weapons,
2 reprocessing facilities, and uranium enrichment fa-
3 cilities on the Korean Peninsula.

4 (5) Although the bilateral denuclearization
5 agreement between North Korea and the Republic of
6 Korea provided for bilateral inspections of nuclear
7 facilities, North Korea has refused to permit any in-
8 spections pursuant to that agreement.

9 (6) In belated compliance with its obligations
10 under the Treaty on the Non-Proliferation of Nu-
11 clear Weapons, North Korea concluded a Fullscope
12 Safeguards Agreement with the International Atom-
13 ic Energy Agency on January 30, 1992. This agree-
14 ment permits the International Atomic Energy
15 Agency to conduct both regular and special inspec-
16 tions of nuclear sites in North Korea in order to ver-
17 ify compliance with the Treaty on the Non-Prolifera-
18 tion of Nuclear Weapons.

19 (7) While conducting inspections pursuant to
20 the Fullscope Safeguards Agreement in 1992, the
21 International Atomic Energy Agency uncovered evi-
22 dence that North Korea has produced more weap-
23 ons-grade nuclear material than it has reported to
24 the International Atomic Energy Agency.

1 (8) As part of its investigation of this matter,
2 the International Atomic Energy Agency requested
3 special inspections of two suspected nuclear sites on
4 February 16, 1993.

5 (9) In order to avoid International Atomic En-
6 ergy Agency inspection of these sites, North Korea
7 on March 12, 1993, announced its intention to with-
8 draw from the Treaty on the Non-Proliferation of
9 Nuclear Weapons.

10 (10) The United Nations Security Council
11 adopted Resolution 825 on May 11, 1993, which
12 called upon North Korea to retract its decision to
13 withdraw from the Treaty on the Non-Proliferation
14 of Nuclear Weapons and fully honor its obligations
15 under that treaty and the Fullscope Safeguards
16 Agreement. Resolution 825 also urged all member
17 states of the United Nations to encourage North
18 Korea to respond positively to the Security Council's
19 action and to take all appropriate steps vis-a-vis the
20 North Korean government to facilitate resolution of
21 the matter.

22 (11) As urged by Resolution 825, the United
23 States has held a series of meetings with representa-
24 tives of the North Korean government.

1 (12) In the context of these meetings, North
2 Korea agreed on June 11, 1993, to suspend its an-
3 nouncement of withdrawal from the Treaty on the
4 Non-Proliferation of Nuclear Weapons, and to hold
5 “serious discussions” with the International Atomic
6 Energy Agency regarding the resumption of inspec-
7 tions pursuant to the Fullscope Safeguards Agree-
8 ment, and with the Republic of Korea regarding im-
9 plementation of the bilateral denuclearization agree-
10 ment.

11 (13) North Korea’s discussions with the Inter-
12 national Atomic Energy Agency since June 11,
13 1993, have not resulted in agreement regarding the
14 resumption of inspections, and discussions with the
15 Republic of Korea have not resulted in agreement
16 regarding implementation of the bilateral
17 denuclearization agreement.

18 (14) In the absence of agreement with the
19 International Atomic Energy Agency, no inspections
20 are taking place at the two North Korean nuclear
21 facilities that were the subject of the International
22 Atomic Energy Agency’s special inspections request
23 of February 16, 1993, and North Korea is, as a
24 practical matter, free to pursue the development of
25 a nuclear explosive device.

1 (15) The current leadership of North Korea
2 has, during the more than 45 years that it has been
3 in power, compiled a record of aggression and law-
4 lessness, including not only its invasion of the Re-
5 public of Korea in 1950 triggering the Korean War,
6 but also countless acts of infiltration and subversion
7 in the Republic of Korea and international terrorism
8 beyond the Korean Peninsula.

9 (16) Particularly in view of this history, the de-
10 velopment or acquisition by North Korea of a nu-
11 clear explosive device would threaten international
12 peace and security in Asia, not least by requiring
13 Japan and the Republic of Korea to consider devel-
14 oping or acquiring nuclear devices of their own.

15 (17) The United States is committed to the de-
16 fense of the Republic of Korea pursuant to the Unit-
17 ed States-Republic of Korea Mutual Defense Treaty
18 of 1954, and continues to station approximately
19 37,000 members of the United States Armed Forces
20 in the Republic of Korea.

21 (18) In view of the risks that would be associ-
22 ated with development or acquisition by North
23 Korea of a nuclear explosive device, President Clin-
24 ton on July 11, 1993, warned that any use by North

1 Korea of such a device would be met by decisive
2 United States retaliation.

3 **SEC. 3. RELEVANT INTERNATIONAL LAW.**

4 The Congress finds and declares the following:

5 (1) Self-defense is an inherent right of nations
6 under international law. This right was reaffirmed
7 by Article 51 of the Charter of the United Nations,
8 which states “Nothing in the present Charter shall
9 impair the inherent right of individual or collective
10 self-defence if an armed attack occurs against a
11 Member of the United Nations, until the Security
12 Council has taken measures necessary to maintain
13 international peace and security.”.

14 (2) President Kennedy’s statement on October
15 22, 1962, during the Cuban Missile Crisis, succinctly
16 explains why the term “armed attack” must be con-
17 strued broadly with respect to nuclear weapons:

18 “We no longer live in a world where only the
19 actual firing of weapons represents a sufficient
20 challenge to a nation’s security to constitute
21 maximum peril. Nuclear weapons are so de-
22 structive and ballistic missiles are so swift that
23 any substantially increased possibility of their
24 use or any sudden change in their deployment

1 may well be regarded as a definite threat to
2 peace.”.

3 (3) Many international legal scholars have rec-
4 ognized that when a government begins making
5 preparations to initiate nuclear warfare, particularly
6 when that government has a history of committing
7 unprovoked aggression, those preparations may con-
8 stitute an “armed attack” within the meaning of Ar-
9 ticle 51 of the Charter of the United Nations. As
10 President Kennedy suggested, in the nuclear age
11 ominous changes in the availability or disposition of
12 nuclear weapons can be as much an armed attack as
13 an army crossing a border. Such an armed attack
14 gives rise to the right of self-defense on the part of
15 those against whom the preparations to initiate nu-
16 clear warfare are directed, including the right to use
17 such force as may be necessary and proportionate to
18 eliminate the threat.

19 (4) This principle of international law was the
20 legal basis for the naval blockade of Cuba ordered
21 by President Kennedy during the Cuban Missile Cri-
22 sis in 1962. It also was the legal basis for Israel’s
23 preemptive strike against the nuclear reactor at
24 Osirak, Iraq in 1981. Both actions defused serious
25 threats to international peace and security. Both il-

1 lustrate that no state will wait until it is too late to
2 defend itself.

3 (5) In view of the record of aggression and law-
4 lessness compiled by the current leadership of North
5 Korea over the last 45 years and the determination
6 with which North Korea is pursuing the development
7 of a nuclear explosive device, the President may con-
8 clude that the threat posed by North Korea's
9 unsafeguarded nuclear program to such United
10 States allies as Japan and the Republic of Korea
11 and to United States forces in the region is so grave
12 as to warrant unilateral United States action to
13 eliminate the threat.

14 **SEC. 4. POLICY DECLARATIONS.**

15 The Congress approves and supports—

16 (1) the determination of the President to pre-
17 vent the development or acquisition by North Korea
18 of a nuclear explosive device;

19 (2) the President's efforts to induce North
20 Korea to comply fully with its obligations under the
21 Treaty on the Non-Proliferation of Nuclear Weapons
22 and the bilateral denuclearization agreement with
23 the Republic of Korea, including the obligation to
24 permit fullscope inspections of all suspected nuclear
25 weapons sites; and

1 (3) the determination of the President to re-
2 spond appropriately should North Korea obtain a
3 nuclear explosive device and use such device against
4 any ally of the United States.

5 **SEC. 5. ADDITIONAL ACTIONS BY THE UNITED STATES.**

6 The Congress approves and encourages the use by the
7 President of any means necessary and appropriate, includ-
8 ing the use of diplomacy, economic sanctions, a blockade,
9 and military force, to prevent—

10 (1) the development or acquisition by North
11 Korea of a nuclear explosive device; or

12 (2) the use by North Korea of such a device
13 against United States forces in the region or against
14 any ally of the United States.

15 **SEC. 6. REPORTS TO CONGRESS.**

16 (a) REQUIREMENT FOR PERIODIC REPORTS.—The
17 President shall submit to the Congress periodic reports on
18 the status of efforts to prevent the development or acquisi-
19 tion by North Korea of a nuclear explosive device. Each
20 such report shall describe the actions taken by the United
21 States pursuant to section 5.

22 (b) WHEN REPORTS ARE TO BE SUBMITTED.—A re-
23 port shall be submitted pursuant to subsection (a) within
24 60 days after the date of enactment of this joint resolution
25 and every 6 months thereafter until the President certifies

- 1 to the Congress that North Korea has ceased its efforts
- 2 to develop or acquire a nuclear explosive device.

